

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN LARRY JENT**, on March 23, 2005 at 9:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Larry Jent, Chairman (D)
Rep. Dee L. Brown, Vice Chairman (R)
Rep. Joan Andersen (R)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Emelie Eaton (D)
Rep. Robin Hamilton (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa K. Henry (D)
Rep. Hal Jacobson (D)
Rep. William J. Jones (R)
Rep. Gary MacLaren (R)
Rep. Alan Olson (R)
Rep. Bernie Olson (R)

Members Excused: None.

Members Absent: Rep. Veronica Small-Eastman, Vice Chairman (D)
Rep. Bruce Malcolm (R)

Staff Present: Sheri Heffelfinger, Legislative Branch
Marion Mood, Committee Secretary
Transcribed by, Lindsey Grovom

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 370, 3/8/2005; HB 777,
3/22/2005; SB 342, 3/8/2005; SB
347, 3/8/2005
Executive Action: HB 786; HB 777; HB 761

HEARING ON SB 370

Opening Statement by Sponsor:

SEN. CAROLYN SQUIRES (D), SD 48, opened the hearing on **SB 370**, Detention officers included in sheriffs' retirement system.

Proponents' Testimony:

Kathy McGowan, Montana Sheriffs and Peace Officers Association, supported the bill.

{Tape: 1; Side: A; Approx. Time Counter: 7 - 17}

Jim Cashell, Montana Sheriff's Association, explained Number 6 on the fiscal note that said where all current eligible detention officers would elect a transfer. He stated that this was not the case, and that if there were any more than four years on the job, one could not afford to pay those costs. Number 7 explained how the members would pay the costs. Fiscal Number 8 indicated there was an increase to the members and to the employees. The Sheriff's system was the only retirement system that had no certified retirement. **Jim Cashell** let the Committee know that the Gallatin County also supported this legislation.

Ellen Feaver, Employee Benefit Resources, noted two things that should be considered when retirement plans were looked at:

- 1) Did the specific set of employees belong in the retirement plan, and
- 2) Funding for the change.

She explained that not all persons eligible to switch will do so. Also, the turnover in the jobs was quite significant. The cost could not be reasonably estimated accurately without doing an actuarial study, which had not been done.

Brian Gootkin, Administrator, Gallatin County Detention Center, echoed previous testimony in favor of the bill.

{Tape: 1; Side: A; Approx. Time Counter: 17 - 32}

Matt Thiel, Missoula County Detention Officer's Association, provided a handout in support of his testimony.

EXHIBIT(sth64a01)

Kathy Frame, Flathead County Sheriff's Office, mentioned that the legislation would not apply to her. However, recruitment and retention had increasingly become a major problem. She had been

seven officers short of her normal workforce for eighteen months. **Ms. Frame** supplied the Committee with a handout outlining the Detention Division.

[EXHIBIT](#)(sth64a02)

Don Kinman, American Federal Federation of State County Municipal Employees, rose in support of the bill.

Leo Dutton, Lewis and Clark County Undersheriff, emphasized that over-crowding of prisons was a major problem in the State of Montana.

Gene Fenderson, Montana District Council of Laborers, urged passage of the bill.

Don Judge, Teamsters Local 190, stated that they enthusiastically and wholeheartedly support the legislation.

Lieutenant Tim Neiter, Assistant Commander, Yellowstone County Detention Facility, supplied written testimony.

[EXHIBIT](#)(sth64a03)

Heather Robbins, Lewis and Clark County Detention, said that the bill would entitle her to a twenty-year retirement. She urged strong support of the bill.

Jim Kembel, Montana Association of Chiefs of Police, believed every law-enforcement officer deserved a twenty-year retirement.

Roger Renville, Lewis and Clark County Detention, urged a Do Pass vote on the bill.

{Tape: 1; Side: B; Approx. Time Counter: 1 - 15}

Sam Kinser, Chaplain, Yellowstone County Sheriff's Office, provided written testimony.

[EXHIBIT](#)(sth64a04)

Janine Allen, Yellowstone County Detention Facility, urged support of SB 370.

Matthew Reighard, Lewis and Clark County Detention Center, believed the bill would greatly improve the training process as they would be retaining more officers.

Opponents' Testimony:

Kelly Jenkins, Public Employee's Retirement Board, provided written materials explaining opposition to the bill. He stated there have been no studies done on the affect of the legislation. Mr. Jenkins presented three amendments for House Bill 370.

[EXHIBIT\(sth64a05\)](#)

[EXHIBIT\(sth64a06\)](#)

[EXHIBIT\(sth64a07\)](#)

[EXHIBIT\(sth64a08\)](#)

[EXHIBIT\(sth64a09\)](#)

{Tape: 1; Side: B; Approx. Time Counter: 15 - 30}

(REPRESENTATIVE JACOBSON left the meeting.)

Amy Carlson, Governor's Budget Office, said that at this point and time the retirement systems were too fragile to try to increase benefits for anyone.

Steve Bender, Department of Administration, noted that he was not opposing the substance of the bill, but rather its form in that it does not provide a long-term funding source.

Informational Testimony: None.

Questions from Committee Members and Responses:

REP. DICKENSON asked Mr. Jenkins about the State reimbursing a county for parole violators. **Mr. Jenkins** replied that was subject to negotiation within each county. **REP. DICKENSON** asked if the cost would go up for each of the detainees if a county had additional costs in order to cover the detention officers' retirement system. **Mr. Jenkins** affirmed that the cost would go up for the State and the counties. **REP. DICKENSON** asked the same question of Sheriff Cashell. **Mr. Cashell** did not see it as a direct increase.

{Tape: 2; Side: A; Approx. Time Counter: 1 - 8}

REP. BROWN asked Kathy Frame what the starting wage was of detention officers. **Ms. Frame** replied \$12.57 per hour.

(REP. ALAN OLSON left the meeting.)

REP. BROWN asked about the kind of background the officers come from. **Ms. Frame** replied that it was varied.

REP. JENT asked Kelly Jenkins why the bill was shown as producing revenue. **Mr. Jenkins** replied that there would be an expenditure by the trust fund and additional contributions into the pension trust fund. **REP. JENT** asked if there was any requirement for the State of Montana to put money if necessary to pass the bill. **Mr. Jenkins** said there was no funding source for the bill. **REP. JENT** asked what needed to be done to pass the bill to make it actuarially sound. **Mr. Jenkins** answered that Amendment 3 would do that.

REP. JENT asked Kathy McGowan how many detention officers there were in the state. **Ms. McGowan** said four hundred. **REP. JENT** asked how many of those were in PERS. **Ms. McGowan** answered that all of them were. **REP. JENT** asked how many of those would be making the election if the bill passed. **Ms. McGowan** couldn't give an exact number.

{Tape: 2; Side: A; Approx. Time Counter: 8 - 21}

REP. CAFERRO asked Kathy McGowan to clarify on the counties' options. **Ms. McGowan** said she had no recollection of the counties having a choice and that was not in the bill.

Closing by Sponsor:

The Sponsor closed.

HEARING ON HB 777

Opening Statement by Sponsor:

REP. GARY BRANAE (D), HD 54, opened the hearing on **HB 777**, Establish Historic and Cultural Properties Commission.

Proponents' Testimony:

SEN. LYNDIA MOSS, SD 26, BILLINGS, stated the intent of the bill was to establish a cultural and historic preservation commission and interim report recommending policies for State-owned historic properties and opportunities for historic preservation State-wide.

EXHIBIT(sth64a10)

(**REP. JACOBSON** returned to the meeting.)

{Tape: 2; Side: A; Approx. Time Counter: 21 - 32}

Chere Jiusto, Montana Preservation Alliance, provided written testimony and a list of Montana's most endangered buildings.

[EXHIBIT\(sth64a11\)](#)

[EXHIBIT\(sth64a12\)](#)

Jeff Teaberry, Montana Heritage Commission, said the bill would provide a systematic comprehensive view of the heritage properties.

Mark Baumler, Montana Historical Society, presented written testimony.

[EXHIBIT\(sth64a13\)](#)

Alec Hanson, Montana League of Cities and Towns, supported the bill.

Opponents' Testimony: None.

Informational Testimony:

Russ Katherman, Department of Administration, gave a technical aspect of the bill in Section 4.

Questions from Committee Members and Responses:

REP. JENT asked Mr. Katherman if there was \$20,000 in HB 5 at the moment. **Mr. Katherman** said that was correct. **REP. JENT** asked where the other \$20,000 would come from. **Mr. Katherman** responded that his understanding was that it would be reduced to a total of \$20,000.

SEN. MOSS walked the Committee through the fiscal note on the bill.

Sheri Heffelfinger handed out the prepared amendment HB77701.acl.

[EXHIBIT\(sth64a14\)](#)

{Tape: 2; Side: B; Approx. Time Counter: 1 - 8}

REP. BROWN asked if there was an opportunity for the public to donate through a charitable organization. **SEN. MOSS** affirmed this was possible. **REP. BROWN** asked how this was done and the **SENATOR** replied that she would get that information for her.

REP. EATON asked the Sponsor if he had forgotten to include two members from the house. **REP. BRANAE** affirmed that and said they would be included.

Closing by Sponsor:

The Sponsor closed.

EXECUTIVE ACTION ON HB 786

Motion: REP. BROWN moved that HB 786 DO PASS.

Motion: REP. BROWN moved that HB 786 BE AMENDED.

Discussion:

Sheri Heffelfinger explained amendment HB178602.ash.
EXHIBIT(sth64a15)

{Tape: 2; Side: B; Approx. Time Counter: 8 - 16}

REP. BROWN stated that it was not fair to the taxpayers, if the bill was allowed to go through without specifying who paid what.

REP. CAFERRO asked REP. BROWN to expound on that.

REP. BROWN replied that it would be like someone deciding that they were going to go down and help the tsunami victims and they were being paid by the disaster relief, those people were taking their paid leave and in turn, being paid by the Feds. **REP. BROWN** did not think those people should be getting double compensation.

REP. HENDRICK thought that the bill took away the point of volunteering and therefore needed to be amended.

REP. HENRY thought the bill took away the true meaning of volunteering.

REP. MALCOLM was unclear as to who would be getting paid first, the volunteer agency or the State.

REP. BROWN replied that she was concerned about the state taxpayer.

REP. CAFERRO mentioned the payment that Vista Volunteers receive.

REP. EATON wanted to make sure that the amendment would not interfere with what someone would want to do on their vacation.

REP. BROWN noted that someone wanting to take a vacation was fine, but if they were taking paid leave that was another issue.

REP. JACOBSON asked if **REP. BROWN** had checked the amendment with the Sponsor. **REP. BROWN** replied no.

Vote: Motion carried unanimously with **REPS. SMALL-EASTMAN, MALCOLM** and **ALAN OLSON** voting by proxy.

Motion: **REP. DICKENSON** moved that HB 78601.ASH BE ADOPTED.

Discussion:

Sheri Heffelfinger explained the amendment.

REP. DICKENSON withdrew her motion without objection.

Motion: **REP. BROWN** moved that HB 786 DO PASS AS AMENDED.

Substitute Motion/Vote: **REP. BROWN** made a substitute motion that HB 786 BE TABLED. Substitute motion carried 9-7 by roll call vote with **REP. CAFERRO, REP. DICKENSON, REP. EATON, REP. HAMILTON, REP. HENRY, REP. JACOBSON,** and **REP. SMALL-EASTMAN** voting no. **REPS. SMALL-EASTMAN, MALCOLM** and **ALAN OLSON** voted by proxy.

{Tape: 2; Side: B; Approx. Time Counter: 16 - 28} _____

REP. BROWN left the meeting.

HEARING ON SB 342

Opening Statement by Sponsor:

SEN. JESSE LASLOVICH (D), SD 43, opened the hearing on **SB 342,** Alternative project delivery contract process for construction projects. He stated that the bill sought to find a balance between the interests of the taxpayers, the economy and fairness to construction companies.

REPS. CAFERRO and **DICKENSON** left the meeting.

Proponents' Testimony:

Cary Hegreberg, Montana Contractors' Association, thought the bill was a good, balanced approach that would allow State agencies and local governments to enter into construction contracts that were other than the traditional low-bid system.

Alec Hanson, League and Cities and Towns, stated that the bill was permissive and the cities and towns were not required to follow the procedures. He said that the bill set up the procedures for how to go about doing a design build for a construction manager contract. He said it was almost like a guideline and seemed to be a well-balanced bill.

REP. SMALL-EASTMAN entered the meeting.

Harold Blattie, Montana Association of Counties, described the bill as ushering in a new day of cooperation between the Montana Contractors' Association and the counties.

{Tape: 3; Side: A; Approx. Time Counter: 1 - 11}

Jim Kembel, Montana Institute of Architects, rose in support of SB 342.

Russ Katherman, State Department of Administration, supported the bill.

Opponents' Testimony: None.

Informational Testimony: None.

Questions from Committee Members and Responses:

Microphone malfunctioned, questions from committee members inaudible. The Sponsor's answers available by listening to the tape.

{Tape: 3; Side: A; Approx. Time Counter: 3 - 9}

REP. HENDRICK left the meeting.

REP. SMALL-EASTMAN asked how the bill would apply to road construction or the railroad. **Mr. Hegreberg** replied that a county or city could use the legislation for road construction contracts. He stated that railroads were private entities and could enter into construction contracts however they chose to.

REP. SMALL-EASTMAN asked if the bill applied to railroads. **Mr. Hegreberg** replied that it was his understanding that unless it was it was a public entity, the bill would have no implication.

Closing by Sponsor:

The Sponsor closed.

{Tape: 3; Side: A; Approx. Time Counter: 9 - 16}

REPS. HENDRICK and CAFERRO returned to the meeting.

EXECUTIVE ACTION ON HB 777

Motion: REP. JACOBSON moved that HB 777 DO PASS.

Motion: REP. HAMILTON moved that HB 77701.ACL BE ADOPTED.

Discussion:

SENATOR MOSS stated that the amendment was taking out "privately" so that it would be clear on the use of State funds.

REP. HENRY wanted to know about the coordinating instructions in the case of HB 2 passing.

Sheri Heffelfinger stated that the amendment did not say to delete the other coordinating instructions.

Vote: Motion carried unanimously by voice vote. REPS. BROWN, DICKENSON, MALCOLM, and ALAN OLSON voted by proxy.

REP. JACOBSON proposed taking action on a conceptual amendment. His request was denied.

{Tape: 3; Side: A; Approx. Time Counter: 16 - 25}

REP. EATON stated that the technical amendment had already been discussed.

Sheri Heffelfinger mentioned that even technical amendments require a legislator to request them and have them drafted.

Motion: REP. JACOBSON moved that HB 777 DO PASS AS AMENDED.

Discussion:

Discussion on the bill as amended was inaudible as a result of microphone difficulties.

Vote: Motion failed 8-8 by roll call vote with REP. CAFERRO, REP. DICKENSON, REP. EATON, REP. HAMILTON, REP. HENRY, REP. JACOBSON, REP. JENT, and REP. SMALL-EASTMAN voting aye. REPS. BROWN, DICKENSON, MALCOLM and ALAN OLSON voted by proxy.

EXECUTIVE ACTION ON HB 761

Sheri Heffelfinger passed out an amendment on behalf of REP. DICKENSON.

EXHIBIT(sth64a16)

Motion: REP. OLSON moved that HB 761 DO PASS.

Motion: REP. JACOBSON moved that HB 76101.ASH BE ADOPTED.

REP. BROWN entered the meeting.

Discussion:

Sheri Heffelfinger explained the amendment.

REP. EATON asked if the amendment would affect the fiscal note.

Sheri Heffelfinger replied that it would.

{Tape: 3; Side: A; Approx. Time Counter: 25 - 32}

REP. DICKENSON felt that more should be done to take care of returning military men. She thought that the idea could be expanded to include reserve servicemen.

REP. BERNIE OLSON thought that raising the fiscal note to such an extent would surely kill the bill. He would rather see the bill come out of Committee than adding such a large amount of money to it.

REP. CAFERRO said she would support the amendment.

REP. DICKENSON said that as far as the cost goes, there were 1,350 guardsmen and reservists that were qualified. She figured that the added expense would approximate \$20,000.

{Tape: 3; Side: B; Approx. Time Counter: 1 - 15}

REP. SMALL-EASTMAN asked if it was possible to get a fiscal note with the added costs of the amendment. **REP. JENT** said that was not possible because of the deadline.

REP. JENT asked what would happen to the bill and the fiscal note if the bill was amended and the cost increased.

Sheri Heffelfinger replied that a new fiscal note would need to be requested and presented at the second reading of the bill on the House floor.

REP. BERNIE OLSON asked if the dollar amount for the bill was in the Governor's Budget.

Sheri Heffelfinger was not sure.

Vote: Motion failed 4-12 by roll call vote with **REP. CAFERRO**, **REP. DICKENSON**, **REP. JACOBSON**, and **REP. SMALL-EASTMAN** voting aye. **REPS. MALCOLM** and **ALAN OLSON** voted by proxy.

REP. JENT left the meeting.

Discussion:

REP. BROWN directed the Committee to Page 3 Section 6 where the appropriation for the bill came in. She noted that she would have to vote no on the bill until there was money to fund it.

REP. DICKENSON made note of an option to change "contingency" to "combat" which would reduce the amount.

REP. JONES said that this was the tip of the iceberg and he would like to see disability and health insurance added. He served in the military and had two first cousins killed in war. He would vote yes on the bill.

REP. JENT returned to the meeting.

REP. DICKENSON stated that if the Federal Government stepped up and did what it should be doing anyway, then the bill would not be needed.

Vote: Motion failed 8-8 by roll call vote with **REP. CAFERRO**, **REP. DICKENSON**, **REP. EATON**, **REP. HENRY**, **REP. JACOBSON**, **REP. JENT**, **REP. OLSON**, and **REP. SMALL-EASTMAN** voting aye. **REPS. MALCOLM** and **ALAN OLSON** voted by proxy.

{Tape: 3; Side: B; Approx. Time Counter: 15 - 18}

HEARING ON SB 347

Opening Statement by Sponsor:

SEN. GREG LIND (D), **SD 50**, opened the hearing on **SB 347**, Revise lobbyist reporting.

Proponents' Testimony:

Anne Hedges, Montana Environmental Information Center, said the bill was simply a clarification bill.

Opponents' Testimony: None.

Informational Testimony:

Dolcee Hubert, Commissioner of Public Practices, was available to answer questions.

Questions from Committee Members and Responses: None.

Closing by Sponsor:

The Sponsor closed.

REP. ALAN OLSON agreed to carry the bill if concurred.

ADJOURNMENT

Adjournment: 12:05 P.M.

REP. LARRY JENT, Chairman

Lindsey Grovom, Transcriptionist

LJ/lg

Additional Exhibits:

EXHIBIT ([sth64aad0.PDF](#))